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## PART I - THE SCHEDULE

### SECTION H - SPECIAL CONTRACT REQUIREMENTS

#### H.1 PROJECT CONTROL SYSTEMS AND REPORTING REQUIREMENTS

##### H.1.1 Project Control System

- (a) The contractor shall propose a project structure that achieves safe and accelerated closure in the most cost-effective manner. The contractor shall establish, maintain and use a project control system that accurately reflects the project status relative to cost and schedule performance, and tracks changes to the baseline. This system shall be fully integrated with the financial accounting systems to ensure consistent reporting of costs. The contractor shall maintain a project control system in accordance with the following requirements:
  - (1) DOE Order 413.3, Program and Project Management for the Acquisition of Capital Assets, October 13, 2000;
  - (2) Integrated Planning, Accountability, and Budgeting System Information Systems (IPABS-IS) Data Requirements, February 16, 1999;
  - (3) Integrated Planning, Accountability, and Budgeting System (IPABS) Handbook, February 16, 1999;
  - (4) HQ Baseline Change Control Charter, Office of Environmental Management, Rev. 0, June 23, 1999; and
- (b) The contractor shall provide the Contracting Officer (CO) with a detailed written description of the proposed project control system for review and approval within 90 days after award of this contract. Cost effective, graded application of controls will be a critical factor in determining acceptability of the proposed system.

The existing project control system may be used until such time as a replacement system is approved. The contractor shall evaluate the usefulness and cost effectiveness of the system and its relationship to the other site information systems. The evaluation shall also identify any enhancements or modifications that are necessary to bring the existing system into compliance with the requirements of the contract.

- (c) The Department of Energy (DOE) Contracting Officer's Representative (COR) or designated representatives will conduct a compliance review of

the contractor's proposed project control system to determine if the description and procedures meet the intent of this contract clause.

#### **H.1.2 Baseline Development and Cost Collection**

- (a) The contractor shall develop and submit a Miamisburg Closure Project (MCP) baseline consistent with the terms and conditions of this contract and their proposal by February 28, 2003. The baseline shall be developed in accordance with DOE Order 413.3 and include all of the scope identified in the Statement of Work (SOW). The Work Breakdown Structure (WBS) shall provide the basis for all project control system components, including estimating, scheduling, budgeting, performing, managing, and reporting, as required under this contract. The contractor shall propose the WBS levels which will jointly represent the Project Baseline Summary (PBS) level.
- (b) Cost estimates shall be integrated with the WBS and use estimating methodologies consistent with DOE Order 413.3. Costs shall be discernable by Budget and Report (B&R) code, direct, indirect and fee. The project control system must maintain capability to provide Total Estimated Cost (TEC), Total Project Cost (TPC), Estimates-to-Complete (ETC), and Estimates-at-Completion (EAC) along with tracking of each of the Target Cost and Target Schedule.
- (c) Schedules shall be developed that integrate with the WBS. All project work scope shall be included regardless of funding source. Certain non-project level of effort work scope may be excluded at the discretion of the CO. Each PBS will have assigned duration that will be based on work scope. Activity logic links shall depict all work scope constraints and decision points and shall be integrated into a total project network schedule. The project schedule shall clearly depict critical path activities and milestones. Activities shall be resource loaded at the lowest practical level of the WBS, but at a maximum at least one level below the PBS to develop time-phased budgets that are integrated with the schedule. Float analysis will be summarized at the PBS and total project levels.
- (d) The contractor shall propose at least five major milestones from the MCP baseline by September 1 of each year for approval by the CO. These milestones shall represent the significant physical accomplishments scheduled for each fiscal year. Performance against these milestones will be considered when determining adjustments to the conditional fee payments.
- (e) The contractor shall analyze DOE proposed or directed funding changes for their impact on technical, schedule, and cost elements of the baseline, along with potential impacts to the Target Cost and Target Schedule.

- (f) Any contractor requested changes or DOE directed changes shall be addressed through the established change control process detailed in Section H.1.4. This process will not, in and of itself, have the authority to change the Target Project Cost and Schedule.
- (g) Prior to the release of funds for each fiscal year, DOE will analyze the baseline for that fiscal year. By June 30 each year the DOE will provide an estimate of any budget restrictions or specific technical or schedule guidance for the upcoming fiscal years through the remainder of the project. The contractor shall prepare a project performance forecast for all upcoming fiscal years from the approved closure project baseline. The contractor shall submit budget allocations to each PBS for the upcoming fiscal year with a focus on differences to the work activities described in the Project Baseline for that specific year. This deliverable is known as the Annual Operating Plan (AOP), as derived from the MCP baseline.
- (h) The contractor shall provide variance justification for differences between planned and actual performance against the total project baseline and the Target Cost and Target Schedule. Performance analysis techniques shall be commercially accepted and documented, and shall utilize earned-value methods and shall be reported to DOE at the PBS level. Performance metrics (i.e., quantities) are preferred for all technical work scope unless otherwise approved by the CO. For variances greater than  $\pm 10\%$ , the analysis shall detail the causes for variance, impact on other PBSs and corrective action required.
- (i) The EAC for the closure project shall be evaluated quarterly to ensure that it is consistent with observed trends in performance, emerging or resolved issues, and changes in the assessment of project risk.
- (j) All actual direct costs incurred for resources applied in the performance of work shall be recorded on a timely basis each month. Actual costs incurred must be recorded in the same accounting period that performance is measured and recorded. Any indirect costs shall also be collected and appropriately allocated to the PBSs.
- (k) Costs shall be collected at a charge number level and be able to be summed through the WBS, PBS and by major contractor functional organization. Mischarges on time cards or other administrative or accounting errors shall be corrected in a timely manner.

### H.1.3 Project Reporting

- (a) The contractor shall provide monthly status reports on each PBS and the total project in a format approved by the CO. At a minimum, the status shall include cost and schedule variance at a suitable WBS level with rollup to the PBS, the status of major milestones, and critical technical or programmatic issues.
- (b) Semi-Annual Critical Analysis (SACA). Twice each year the contractor shall prepare and submit a comprehensive report that critically analyzes the overall status of the MCP as well as any key metrics. This report shall include overall narrative summaries, analysis of schedule trends and project float, critical path performance, analysis of critical manpower skills of other resources, budget and funding figures, and project risk updates.
- (c) Plans and reports shall be prepared in such a manner as to provide for consistency with the contract SOW, the MCP baseline, the approved WBS. The contractor's reporting system shall be able to provide for the following at the PBS level:
  - (1) Timely incorporation of contractual changes affecting estimated cost and schedule
  - (2) Reconciliation of estimated costs for those elements of the WBS with current performance measurement budgets in terms of changes to the authorized work and internal re-planning
  - (3) Changes to records pertaining to work performed that will change previously reported costs for correction of errors and routine accounting adjustments
  - (4) Revisions to the contract estimated costs for DOE-directed changes to the contractual effort.
- (d) The contractor shall provide the CO, or designated authorized representatives, access to any and all information and documents comprising the contractor's project control and reporting system. Generally, access will not be requested more than one level below the level chosen by the CO for control and approval authority, except during compliance reviews.
- (e) The contractor shall include graded reporting requirements in all subcontracts adequate to fairly evaluate performance and support the contractor reporting requirements.

#### H.1.4 Baseline Change Management

- (a) The baseline is the source document for all project control and baseline change management. The processes for managing and administering changes to all elements of the baseline shall be timely, formal, and documented. Baseline changes shall be proposed when:
  - (1) Necessitated by significant project delays, events or other impacts
  - (2) The parties have negotiated an equitable adjustment in accordance with the Section I clause entitled, "Changes-Cost-Reimbursement" or other clauses of this contract.
- (b) The approval authority for any change to the Target Schedule or Target Cost (above that stated in Section B) shall be the Assistant Secretary for Environmental Management. Any change to Target Cost that would require additional funding (above that stated in Section B), shall be approved by the Assistant Secretary for Environmental Management.
- (c) Provided that the change does not affect Target Cost or Target Schedule as stated above, the baseline change control thresholds for cost shall be the lesser of the following:
 

DOE Headquarters	\$10,000,000 or 20% of the PBS annually
MCP	\$ 5,000,000 or 10% of the PBS annually
Contractor	Up to the MCP Level

Additional work scope can only be authorized by the CO regardless of the threshold level.
- (d) In some circumstances the contractor might exceed authorized budget levels for a PBS when a baseline change is not warranted, such as for cost overruns. The current year ETC Analysis shall track and manage changes in funding at each PBS level.
- (e) Specific change control time frames for consideration and approval will be established by the CO. Each change control threshold level shall accommodate emergency changes. Retroactive changes that affect schedule and cost performance data are not allowed except to correct administrative errors. A record of all approved changes, at any level, shall be maintained through the life of the project. Change control records shall maintain a clear distinction between approved changes in funding and baseline changes. Ownership of Change Control Board records and Project Management records resides with DOE.

- (f) Any changes to target cost, target schedule or target fee shall be executed only through a contract modification by the CO pursuant to the contract terms and conditions. Baseline changes may not imply the need for changes to Target Cost, Target Schedule or Target Fee.

## H.2 PROGRAMMATIC RISKS AND UNCERTAINTIES

- (a) Completion of the MCP will require the DOE and the contractor to successfully resolve, mitigate, eliminate, or avoid many types of risk. Risks to the public, and the environment are managed through the ES&H Program identified in Section C.4.3. Risks to project schedule and cost are classified as programmatic risk and shall be managed through the Programmatic Risk Management process within the Project Management System identified in Section H.1.
- (b) The DOE has identified the following programmatic uncertainties within the SOW.

#	Uncertainty	Description
1	Estimated LLW volumes	The estimated quantity of LLW to be generated from PRS disposition, and building footprint contamination is 4.3 million cubic feet. The estimate is based largely on expected response actions (Section C, Exhibit 4) and represents a conservative (high) waste volume.
2	Receiver site availability for waste materials	The DOE identifies the receiver sites for Low Level Waste, Mixed Low Level Waste, TRU Waste, and Excess Nuclear Materials. The availability of these sites to receive waste materials contains some uncertainty and may be affected by issues beyond the DOE and contractor's control.
3	Discovery of additional TRU Waste	The volume of TRU waste to be removed from the site is identified in the SOW. The DOE agreement with the DOE SRS allows the shipment of approximately 300 cubic meters of TRU Waste. The approval of the OHOX railcar expires in November 2003. Additional TRU Waste may be discovered after November 2003 requiring disposition.
4	Pension, Medical and Legacy Cost of Employee Benefits	The contractor will assume, manage, and/or sponsor MCP's retiree pension, medical and life insurance plans, the costs of which are subject to increase. Additionally, the cost of these benefits takes a significant percentage of the funding available to the MCP.



#	Uncertainty	Description
5	Discovery of radioactive contamination in buildings presently identified as having no known contamination	Many of the buildings listed in Section C, Exhibits 1 and 2 have no known radioactive contamination. However, the history of the Mound Site is long and complex, and a possibility exists that contamination may be discovered in these buildings.
6	Identifying additional PRSs not listed in Exhibit 4	All known sites of potential contamination that require an environmental evaluation are listed in Section C, Exhibit 4. However, the history of the Mound Site is long and complex, and a possibility exists that additional sites of potential contamination (i.e., PRSs) may be encountered during the site closure project.
7	Increase in waste disposal costs	The disposal rates at permitted commercial and Government disposal sites are subject to change in the future.
8	Potential removal of site sanitary landfill (PRS 8)	The site sanitary landfill may be breached during the excavation of adjoining crushed thorium drums. If full removal of the landfill is required, a significant increase in waste volume is anticipated.

- (c) The contractor shall provide its assessment of the impact these uncertainties may have on project cost and schedule. If, in the contractor's opinion, the risk to cost and schedule is significant, the contractor shall describe its approach to eliminate, avoid, or mitigate the risks.
- (d) The contractor shall identify other significant uncertainties contained within the SOW that, in its opinion, are not listed above and provide a significant risk to cost and schedule. The contractor shall describe its approach to eliminate, avoid or mitigate these additional risks.
- (e) When developing approaches to eliminate, avoid or mitigate risks to cost and schedule, the contractor may propose an allocation of risk responsibility to the organization best suited to manage the risk. This can result in the contractor assuming total responsibility, the DOE assuming total responsibility, or a clearly defined method of sharing risk responsibility between the DOE and the contractor.
- (f) The contractor shall identify its approach for identifying future uncertainties and their associated programmatic risks. The contractor shall describe how it will manage and communicate uncertainty and risks to DOE during the performance of the contract.

**H.3 952.242-70 TECHNICAL DIRECTION**

- (a) Performance of the work under this contract shall be subject to the technical direction of the DOE COR. The term "technical direction" is defined to include, without limitation:
  - (1) Providing direction to the contractor that redirects contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual SOW.
  - (2) Providing written information to the contractor that assists in interpreting drawings, specifications, or technical portions of the work description.
  - (3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the contractor to the DOE.
- (b) The contractor will receive a copy of the written COR designation from the CO. It will specify the extent of the COR's authority to act on behalf of the CO.
- (c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that:
  - (1) Constitutes an assignment of additional work outside the SOW
  - (2) Constitutes a change as defined in the contract clause entitled "Changes;"
  - (3) Contract cost, the fee (if any), or the time required for contract performance;
  - (4) Changes any of the expressed terms, conditions or specifications of the contract; or
  - (5) Interferes with the contractor's right to perform the terms and conditions of the contract.
- (d) All technical direction shall be issued in writing by the COR.
- (e) The contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the contractor must not proceed and must notify the CO in writing within five working days after receipt of any such instruction or direction and

must request the CO to modify the contract accordingly. Upon receiving the notification from the contractor, the CO must:

- (1) Advise the contractor in writing within 30 days after receipt of the contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;
  - (2) Advise the contractor in writing within a reasonable time that the DOE will issue a written change order; or
  - (3) Advise the contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR.
- (f) A failure of the contractor and CO either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect the technical direction will be subject to the provisions of the clause entitled "Disputes."

#### **H.4 DOE CONTRACT ADMINISTRATION AND OVERSIGHT**

- (a) The MCP presents significant work scope challenges to the winning contractor, and makes it imperative that the DOE has a focused approach for providing oversight of contractor work. This approach shall provide effective DOE oversight of project work, yet it must not present the contractor with burdensome or "non-value added" work related distractions.

The DOE oversight approach shall include reviews of periodic administrative progress reports submitted by the contractor and direct observation by DOE employees of contractor work in progress.

The DOE oversight of work in progress will include specific provisions for the designation and qualification of DOE employees conducting oversight activities. This will include the following elements:

- (1) The number of DOE employees providing technical direction to the contractor will be limited and formally designated, by name, in writing by the CO.
- (2) The DOE employees assigned oversight responsibilities will be trained and qualified in areas of technical competency. The areas of technical competency will focus on the work conducted by the contractor (i.e., waste packing, facility demolition, facility decontamination, crane operation and heavy-lifting safety, etc.). Prior to conducting formal oversight

of contractor work, the technical competency of designated DOE employees will be examined, approved and documented as defined in the MCP DOE Oversight Plan. This plan will be approved by the Assistant Secretary for Environmental Management. (This is for information purposes only and is not intended to convey any rights to the contractor or impose any obligations on the Government.)

- (b) The DOE oversight activities will focus primarily on a safe, accelerated closure of the MCP. The DOE oversight will be conducted in a tailored and proactive manner with minimal interference with project progress. The contractor shall respond to DOE oversight and to concerns, findings and observations as identified by the CO or COR during the conduct of these oversight activities. The five fundamental areas of oversight are as follows:
  - (1) Project Management Oversight: This includes daily field inspections and the monthly and quarterly assessment of project status, which will be used to determine and validate project performance. The qualification of DOE employees conducting this oversight is described in Section H.4(a).
  - (2) Contract Management Oversight: Administration and monitoring of the prime contract will be in accordance with the contract terms and conditions which include, but are not limited to, the oversight required under FAR Subchapter G – Contract Management (FAR Parts 42-51) and its supplements.
  - (3) Financial Management Oversight: The DOE will review all budgetary data submitted by the contractor to be provided into IPABS. The DOE will review the status of all designated Ohio management commitments. The DOE will monitor and audit contractor funds management practices and procedures to ensure compliance with applicable regulations and statutes.
  - (4) Daily Oversight: The DOE Facility Representatives, Project Managers and Subject Matter Experts will conduct daily oversight. The qualification of DOE employees conducting this oversight is described in Section H.4(a). The purpose of these contacts will be to assess compliance with the terms and conditions of the closure contract. In addition to this daily involvement, the contractor shall support:
    - (i) Senior management walk-throughs, conducted in scheduled areas of the plant or locations where significant work is ongoing.

- (ii) Specific tours of buildings just prior to demolition, or PRSs that have been deemed as response actions.
  - (iii) Periodic walk-throughs by the regulators, Defense Nuclear Facilities Safety Board (DNFSB), or DOE Headquarters personnel.
  - (iv) Employee concerns elevated to the DOE for evaluation.
- (5) Scheduled Assessments: The DOE will publish a three-year schedule of assessments that will be provided on the DOE Ohio Field Office web site. Adjustments will be made no fewer than 30 days prior to any planned assessment (with the exception of a “For Cause” review). Specific assessment details will be provided 30 days in advance to the involved organizations. Assessment reports will be formally transmitted to the contractor for development of a corrective action plan, if required. The DOE will verify and validate the contractor’s effectiveness in correcting the root cause problem of the concerns and findings. The MCP procedure governing assessments is available on the DOE web site.
- (c) The COR for giving technical direction is listed below. The contractor shall use the COR designated as the primary point of contact on technical matters (See the Correspondence Procedures clause, Section G, for definition), subject to the restrictions of Section H.3.
- Richard B. Provencher, Director
- (d) The individuals listed below are delegated with limited COR authority as identified.
- Deborah Westerman - Information Management
- Marian Wilcox - Freedom of Information Act, Privacy Act and EEOICPA
- Julia Wiley - Legal Management Plan and Invoices
- (e) Future revisions of the COR may be accomplished by written notification from the CO to the contractor, without a formal contract modification.

## **H.5 GOVERNMENT FURNISHED SERVICES/ITEMS (GFSI)**

The DOE and the contractor recognize that implementation of the SOW in an optimized fashion is dependent upon many activities, including the GFS/I identified below.

Within thirty (30) calendar days after the effective date of the contract and by September 1 prior to each fiscal year end, the contractor shall provide the CO a projection of its needed Government Furnished Services and Items (GFSI), identified in Table H-5. The contractor shall also provide quarterly updates to this projection, if changes occur, to the CO. Amendments to the projection, if any, shall be provided to the CO 45 calendar days in advance of the GFSI need date.

DOE will review each contractor submittal of GFSI needs and, within 15 calendar days, shall notify the contractor whether it will provide the requested GFSI. If DOE will not provide the GFSI as requested by the contractor, DOE will identify when it can provide the requested GFSI within 30 calendar days of the request. If DOE cannot provide the request for GFSI within the time periods listed in Table H-5, the Contractor may be entitled to pursue remedies in the manner and subject to the limitations set out in subparagraphs (b) and (h) of the Section I DEAR 952.245-5 “Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).”

Table H-5

**Detailed Description of Government Furnished Services and Items:****I. Site Closure Documentation:**

Scope	Requirement	Government Furnished Services & Items
<p><b>A. <u>Core Team Documentation</u></b></p> <p>The contractor is required to develop a broad range of site closure documentation (i.e., Building Data Packages, Work Plans, Sampling Analysis Plans, etc.) to support the Core Team decision-making process as described within the Mound 2000 Approach. In all cases, the contractor shall deliver Core Team documentation to the CO for DOE review and approval. When satisfied, DOE will direct documentation distribution (i.e., timing and method of delivery) to Core Team members.</p>	<p>DOE shall review and approve all site closure documents prior to their delivery to the Core Team.</p> <p>DOE shall be responsible for scheduling Core Team reviews of site closure documentation.</p>	<ul style="list-style-type: none"> <li>• DOE shall provide comments to the contractor on site closure document within 20 business days of receipt.</li> <li>• After DOE approval of site closure documentation, DOE will schedule documentation review by the Core Team to occur within 30 calendar days.</li> </ul>
<p><b>B. <u>Other Documentation</u></b></p> <p>The contractor will submit other documentation to DOE for approval during the Site Closure Project.</p>		<p>DOE shall provide comments and/or approval of other documentation as follows:</p> <ul style="list-style-type: none"> <li>• Baseline: 45 calendar days</li> <li>• Baseline Changes: 20 calendar days</li> <li>• Regulatory documents: as defined in DEAR 970.5204-2, "Laws, Regulations and DOE Directives"</li> <li>• General correspondence: 7 calendar days</li> </ul>

**II. Waste Management:**

Scope	Requirement	Government Furnished Services & Items
<b>A. <u>Low Level Waste (LLW) and Low Level Mixed Waste (LLMW)</u></b>  The contractor shall expedite disposal of LLW and LLMW as it is generated as described in Section C.3.2.	The DOE shall identify receiver sites for LLW and LLMW	<ul style="list-style-type: none"> <li>The DOE shall identify to the contractor, receiver sites for all LLW and LLMW generated during the MCP.</li> </ul>
<b>B. <u>Transuranic and Transuranic Mixed Waste</u></b>  The contractor shall store, package and ship TRU and TRU Mixed waste to the Savannah River Site (SRS) as described in SOW, Section C.3.3. The transportation of this material shall occur in approved OHOX rail cars provided by DOE.	DOE provide OHOX rail cars approved to ship TRU / TRU Mixed waste to the SRS.	<ul style="list-style-type: none"> <li>DOE will provide two OHOX rail cars approved for shipment of TRU and TRU Mixed waste to SRS until November 30, 2003.</li> </ul>
<b>C. <u>Excess Nuclear Material</u></b>  The contractor shall dispose of excess nuclear material identified during the closure of MCP to another DOE or commercial facility as defined in SOW, Section C.3.4. DOE will identify approved receiver sites for this material.	DOE identify receiver sites for excess nuclear material.	<ul style="list-style-type: none"> <li>Within 90 calendar days after being notified by the contractor that excess nuclear material (in addition to the nuclear material identified in Section C.3.4) has been identified, the DOE will identify approved receiver sites.</li> </ul>

**III. DOE Oversight of Contractor Work**

Scope	Requirement	Government Furnished Services & Items
<b>A. <u>DOE Oversight of Contractor Work:</u></b>  DOE will oversee contractor work as described in paragraph H.4 of Section H, Special Contract Requirements.	DOE will provide a focused approach for providing oversight of contractor work.	<ul style="list-style-type: none"> <li>Within 5 working days after award of this contract, DOE will provide to the contractor a copy of the MCP DOE Oversight Plan.</li> <li>Throughout the period of performance of this contract, the DOE will provide oversight of contractor work in accordance with the MCP DOE Oversight Plan described in Section H.4.</li> </ul>



#### IV. Infrastructure and General Site Operations

Scope	Requirement	Government Furnished Services & Items
<p><b>A. <u>Project Support Services</u></b></p> <p>The contractor shall provide general project support services as described in SOW, Section C.4.</p>	<p>DOE shall ensure Government controlled services, data systems and technical systems are available for contractor access as needed to provide project support services:</p>	<ul style="list-style-type: none"> <li>• DOE will ensure the following services, data systems and technical systems are available to the contractor throughout the period of performance of this contract: <ul style="list-style-type: none"> <li>a) Computerized Accident/Incident Reporting System (CAIRS)</li> <li>b) Non-Compliance Tracking System (NTS) Database</li> <li>c) Occurrence Reporting and Processing System (ORPS)</li> <li>d) Foreign Access Central Tracking system (FACTS) Database</li> <li>e) Nuclear Material Management and Safeguards Systems Software</li> <li>f) Federal Telephone System Access</li> <li>g) Access to the EM's Integrated Planning, Accountability and Budget System (IPABS).</li> <li>h) Miamisburg Environmental Safety and Health (MESH) database</li> </ul> </li> </ul>
<p><b>B. <u>Utility Services</u></b></p> <p>The DOE contractual agreements provide the contractor with utility services that include natural gas, electricity and natural gas transportation.</p>	<p>DOE shall maintain the contractual agreements that provide utility services to the contractor.</p>	<p>The DOE will provide a contractual document to allow the contractor to obtain utility services throughout the period of performance of this contract. These utility services include natural gas, electricity and natural gas transportation.</p>

Scope	Requirement	Government Furnished Services & Items
<p><b>C. <u>Safeguards &amp; Security</u></b></p> <p>The contractor shall promptly prepare and submit applications for security clearances as required for work under this contract in portions of buildings SW, T and A.</p>	<p>The contractor shall request the security clearances for employees as required to execute the contract.</p> <p>The DOE shall process contractor security clearance requests.</p>	<ul style="list-style-type: none"> <li>• DOE shall promptly process Contractor security clearances. On average, processing time will be in accordance with DOE Order 472 guidelines which for clear cases will be at or below the following: <ul style="list-style-type: none"> <li>Q - 75 calendar days</li> <li>L - 75 calendar days</li> </ul> </li> <li>• Processing time begins upon receipt of the case from the Contractor.</li> </ul>

## H.6 GUARANTEE OF PERFORMANCE AGREEMENT

The contractor or the contractor's parent organization(s) has (have) provided a Guarantee of Performance Agreement in a manner and form (see Section K, for model language) acceptable to the CO assuring the performance, duties, and responsibilities including repayment of unearned provisional fee, will be satisfactorily fulfilled. The Guarantee of Performance Agreement dated September 17, 2002, is incorporated herein by reference and made part of this contract.

## H.7 RESPONSIBLE CORPORATE OFFICIAL

The contractor shall guarantee performance as evidenced by the Guarantee of Performance (Section H.6). If a separate business entity is established for this contract, the contractor's parent company shall guarantee performance. If the contractor is a joint venture or other similar entity where more than one company is involved, the parent companies shall assume joint and severable liability for the performance of the contractor. In the event any of the signatories to the Guarantee of Performance enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish written notification of the bankruptcy to the CO. Notwithstanding the provisions of this clause, the DOE may contact, as necessary, the single responsible corporate official identified below, who is at a level above the contractor and who is accountable for the performance of the contractor, regarding contractor performance issues. Should the responsible corporate official change during the period of the contract, the

contractor shall promptly notify the CO in writing of the change in the individual to contact. The contractor shall provide the following information:

Name: James J. Ferris  
Position: Chairman of the Board  
Company/Organization: CH2M HILL Mound, Inc.  
Address: 6060 South Willow Drive, Greenwood Village, CO 80111  
Phone: (303) 771-0900  
Facsimile: (303) 846-2626  
E-mail: eroberts@ch2m.com

## **H.8 KEY PERSONNEL**

- (a) In addition to the Key Personnel named in Section J, Attachment K, the CO may elect to identify other positions as key. In that case, the CO will notify the contractor in writing of those key positions. The contractor shall provide names and resumes for approval within 30 calendar days of notification.
- (b) These Key Personnel are considered to be essential to the work being performed on this contract. Prior to diverting to other positions or substituting any of the specified Key individuals, or proposing them as a Key person under another contract, the contractor shall notify the CO in writing at least 30 calendar days in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion or substitution shall be made by the contractor without the written consent of the CO, provided that the CO may ratify in writing such diversion or substitution and such ratification shall constitute the consent of the CO required by this clause. Unless approved in writing by the CO, no Key Personnel position will remain unfilled by a permanent replacement for more than four months. The Key Personnel List shall be amended during the course of the contract to add or delete Key Personnel as appropriate.

## **H.9 LEGAL MANAGEMENT PLAN**

- (a) The contractor shall submit a Legal Management Plan in accordance with 10 CFR Part 719, and include the items set forth in 10 CFR 719.10 to the CO for approval within sixty (60) calendar days.
- (b) The Plan will describe the contractor's practices for managing legal costs and matters for which it procures the services of retained legal counsel. Once approved by the CO, the Plan, as well as applicable regulations and contract provisions forms the basis for approvals by the CO to reimburse litigation and others legal expenses. The Plan may be revised from time to

time to conform to legal management rules or policies established by the DOE.

#### **H.10 PRIVACY ACT SYSTEMS OF RECORDS**

- (a) The contractor shall be responsible for the design, development, or operation of the following systems of records that are subject to the Privacy Act of 1974:
- |        |  |
|--------|--|
| DOE-5  | Personnel Records of Former Contractor Employees   |
| DOE-10 | Worker Advocacy Records  |
| DOE-31 | Firearms Qualifications Records  |
| DOE-33 | Personnel Medical Records -- (DOE and Contractor Employees)  |
| DOE-35 | Personnel Radiation Exposure Records   |
| DOE-38 | Occupational and Industrial Accident Reports   |
| DOE-44 | Special Access Authorization for Categories of Classified Information  |
| DOE-48 | Security Education and/or Infraction Reports   |
| DOE-51 | Employees and Visitor Access Control Records   |
| DOE-52 | Access Control Records of International Visits, Assignments, and Employment at DOE Facilities and Contractor Sites |
| DOE-88 | Epidemiological and Other Health Studies, Surveys and Surveillances  |
- (b) The above list shall be revised from time to time by the CO as may be necessary to keep it current. Such changes need not be formally incorporated before annual fee and scope modifications, but shall have the same effect as if actually listed above, for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of Section I, 52.224-2, "Privacy Act".

#### **H.11 UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (UCNI)**

Documents originated by the contractor or furnished by the DOE to the contractor in connection with this contract may contain Unclassified Controlled Nuclear Information as determined pursuant to Section 148 of the Atomic Energy Act of 1954, as amended. The contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE Regulations and Directives.

## **H.12 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN**

The Small and Small Disadvantaged Business Subcontracting Plan, dated September 20, 2002, submitted by the contractor for this contract, and approved by the CO is incorporated. Any revision to the Plan shall be accomplished by contract modification.

Performance against the above Plan/Program will be considered in the past performance evaluation conducted yearly by the CO.

## **H.13 ADMINISTRATION OF SUBCONTRACTS**

- (a) The administration of all subcontracts entered into and/or managed by the contractor, including responsibility for payment hereunder, shall remain with the contractor unless assigned at the direction of DOE.
- (b) The DOE reserves the right to direct the contractor to assign to the DOE or another contractor any subcontract awarded under this contract.
- (c) The contractor agrees to accept transfer of exiting subcontracts as determined necessary by DOE for continuity of operations. The contractor shall attempt to negotiate changes to the assigned subcontracts incorporating mandatory flow-down provisions at no cost. If the subcontractor refuses to accept the changes or requests price adjustments, the contractor will notify the CO in writing.
- (d) The DOE reserves the right to identify specific work activities in the SOW to remove (de-scope) from the contract in order to contract directly for the specific work activity. The Department will work with the contractor to identify the areas of work that can be performed by small businesses in order to maximize direct federal contracts with small businesses. The contractor agrees to facilitate these actions. This will include identifying direct contracting opportunities for small businesses for work presently performed under subcontracts as well as work performed by contractor employees. The contractor shall notify the DOE one-year in advance of the expiration of any of its subcontracts or if applicable, one-year prior to the exercise of an option and/or the option notification requirement, if any, contained in a subcontract. The DOE will review this information and the requirements of the contractor to determine the appropriateness for small business opportunities. This review may result in the DOE electing to enter in contracts directly with small businesses for these areas of work. The CO will give notice to the contractor not less than 120 calendar days prior to the date for exercising the option and/or the expiration of the subcontract and/or prior to entering into contract for work being

performed by contractor employees. Following award of these direct federal contracts, DOE may assign administration of these contracts to the contractor. The contractor agrees to accept assignments from the DOE for the administration of these contracts. The parameters of the contractor's responsibilities for the small business contracts and/or changes, if any, to the instant contract will be incorporated via a modification to the contract. The contractor will accept management and administration responsibilities, if so determined.

#### **H.14 DEPARTMENT OF LABOR WAGE DETERMINATION**

In the performance of this contract the contractor and/or subcontractors shall comply with the requirements of U.S. Department of Labor Wage Determination Numbers 2002-0220, Rev. 2, and 1994-2419, Rev. 20, if the contract or subcontracts are covered by the Service Contract Act. These Wage Determinations are attached to this contract (see Section J, Attachment F). Revised wage determinations shall be required from the Department of Labor and incorporated into this contract at least once every two (2) years but not more often than yearly. The contractor and/or subcontractors shall comply with the revised wage determinations for Service Contract Act covered employees.

#### **H.15 INSURANCE - WORK ON A GOVERNMENT INSTALLATION**

The following kinds and minimum amounts of insurance are required during the performance of this contract:

- (a) Worker's Compensation and Employer's Liability Insurance:
  - (1) The amount required by the State of Ohio under applicable Worker's Compensation and occupational disease statutes.
  - (2) Employer's liability insurance in the amount of \$100,000.
- (b) General Liability Insurance. Bodily liability coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.
- (c) Automobile Liability Insurance. Coverage shall be on the comprehensive form of policy. It shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

- (d) The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

#### **H.16 QUALITY ASSURANCE PROGRAM**

The contractor shall establish and maintain a formal Quality Assurance Program acceptable to the DOE which satisfies the Quality Assurance Requirements contained in the List of Applicable Regulations and DOE Directives (List A and B) appended to this contract (Section J). The contractor shall also meet the requirements of the Site-wide CERCLA Quality Assurance Project Plan. Any subcontracts issued in support of this contract shall require subcontractors to comply with the above requirements.

#### **H.17 INTERNAL AUDIT**

The contractor shall conduct an internal audit and examination program in accordance with the Government Auditing Standards (yellow book, dated May 2002) and Internal Auditing Standards (red book, dated January 2002) of records, operations, expenses, and transactions with respect to costs claimed to be allowable and allocable under this contract. The results of such audit including the working papers shall be submitted or made available to the CO or his/her designee. This clause does not supercede the DOE's right to perform self-initiated reviews, evaluations, or audits directed at improving the efficiency of operations and an overall reduction in cost.

#### **H.18 PRICE ANDERSON AMENDMENTS ACT NONCOMPLIANCE**

The contractor shall maintain an internal Price Anderson Amendments Act (PAAA) noncompliance identification, tracking, reporting and corrective action system and shall provide access to and fully support DOE reviews of the system. The contractor shall be accountable for ensuring that subcontractors adhere to the PAAA requirements.

#### **H.19 DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

The contractor shall support preparation of DOE responses to DNFSB issues and recommendations that affect or can affect contract work. Based on CO direction, the contractor shall fully cooperate with the DNFSB and provide access to such work areas, personnel, and information as necessary. The contractor shall maintain a document process consistent with DOE M 140.1-1B, "Interface with the Defense Nuclear Facilities Safety Board," dated March 30, 2001. The contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

**H.20 PERMITS, APPLICATIONS AND LICENSES**

- (a) Except as directed by the CO, the contractor shall, on behalf of the DOE, procure and execute all necessary permits or licenses. The contractor shall abide by all applicable laws, regulations, and ordinances of the United States and of the state, territory, and political subdivision in which the work under this contract is performed. The contractor shall accept assignment of permits currently held by DOE and its existing operating contractor.
- (b) The contractor shall sign environmental permits and applications as “operator” if deemed appropriate by DOE. The contractor shall submit all reports required by permits directly to DOE to forward to the regulatory agencies unless otherwise directed by the CO.

**H.21 LOBBYING RESTRICTION**

The contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence Congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

**H.22 NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS-SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

**H.23 PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA**

Pursuant to FAR 9.405(a), awards shall not be made to entities that are included on the List of Parties Excluded from Federal Procurement and Non-procurement Programs. If DOE, or DOE contractor personnel become aware of a possible violation of the prohibition against falsely mislabeling products as made in America, and the entity is not on the List of Parties Excluded from Federal Procurement and Non-procurement Programs, the matter should be promptly reported through the CO.

The report of an entity in violation of the prohibition against falsely mislabeling products as American-Made shall be submitted to the DOE Office of Contract



Management, Office of Procurement and Assistance Management, for potential debarment of the entity pursuant to FAR 9.406-2(a)(4) and 9.406-2(b)(1)(iii).

#### **H.24 ALLOCATION OF LIABILITY FOR FINES AND PENALTIES TO RESPONSIBLE PARTY**

- (a) Liability and responsibility for civil fines or penalties arising from or related to violations of environmental, safety, health, or quality requirements shall be borne by the party that caused the violation (contractors, subcontractors teaming partners, joint ventures, etc.). This clause resolves liability for fines and penalties, though the cognizant regulatory authority may assess such fine or penalty upon either party or both parties without regard to the allocation of responsibility or liability under this contract. The allocation of liability for such fine or penalty is effective regardless of which party signs permit applications, manifests, reports or other required documents, is a permittee, or is named subject of an enforcement action or assessment of a fine or penalty.
- (b) Regardless of which party to this contract is the named subject (contractor or DOE) of an enforcement action for noncompliance with the environmental, safety, health, or quality requirements by the cognizant regulatory authority, liability for payment of any fine or penalty as a result of contractor actions or inactions is the responsibility of the contractor. Cost of fines and penalties resulting from violations of, or failure of the contractor to comply with Federal, State, local, or foreign laws and regulations, are unallowable except under the conditions stipulated at FAR 31.205-15.

#### **H.25 WORKFORCE TRANSITION AND MANAGEMENT**

- (a) Preference in Hire

During transition, the contractor shall have the flexibility to organize its workforce as it believes necessary to effectively and efficiently perform the scope of work with the appropriate number of employees with the required skills. See Section H.25 (d) regarding employees subject to collective bargaining agreement(s). The contractor shall provide a hiring preference, to the extent practicable, for non-managerial, non-construction positions with the contractor to all individuals who are employees of BWXTO as of the final day of contract DE-AC24-97OH20044, as set forth below in this clause. This preference shall not apply to employees of BWXT and its teaming partners who have been seconded to work on BWXTO operations. A list of such individuals who have been seconded to BWXTO operations will be provided upon contract award.

At Contract Transition

The hiring preference under this clause is contingent upon the following:

- i. The individuals were employees of BWXTO as of the final day of contract DE-AC24-97OH20044;
- ii. The employees meet the qualifications for the positions;
- iii. The employees have no conflicts of interest that preclude accepting the positions; and
- iv. Employment of the employees would not be inconsistent with the terms of any applicable post-employment restrictions.

If a candidate who does not meet the qualifications for a preference under this clause is selected, the contractor must comply with DEAR clause 952.226-74 in making the selection and the contractor's Human Resources Director must approve a specific exception. If a candidate who does not meet the qualifications for a preference under this clause or under DEAR clause 952.226-74 is hired for a specific position instead of a candidate who does meet such qualifications, the contractor's Human Resources Director must document a clear and significant difference in the credentials of the candidates, or other appropriate reason for not selecting the candidate who does meet the qualifications set forth above. If there is no candidate who meets the qualifications for a preference under this clause or under DEAR clause 952.226-74 available for a specific position, and the vacancy is filled with a candidate who does not meet these qualifications, the Human Resources Director must document the basis for that determination.

The contractor shall, within 10 working days of the effective date of this contract, provide certification to the CO that it has complied with this clause in making its determinations regarding employment of BWXTO employees at contract transition. The certification will be relied upon by the Department in issuing reimbursement of severance costs under the BWXT contract and/or the instant contract. Use of temporary employees immediately upon transition and/or the beginning date of performance will be construed as a failure to comply with the contract unless the contractor demonstrates, with documentation signed by the Human Resources Director, that no candidate who does meet these qualifications was available for the vacancies filled by temporary employees.

The contractor shall provide the CO with a list of BWXTO employees hired during the transition and those not hired during the transition. The list shall include the employees' position and salary. The contractor shall provide a list of BWXTO employees that are hired by the contractor at another facility, or by a subsidiary, affiliate, parent company, or teaming partner, during the transition. The list shall include position and salary. The above will be used in order to determine whether severance payments are allowable under Contract DE-AC24-97OH20044.

Vacancies After Contract Turnover

In the event that new positions are required, or existing positions again become vacant and must be filled after contract transition, the hiring preference will be applied in the following order of precedence:

- i. First preference will be given to those employees of BWXTO as of the final day of contract DE-AC24-97OH20044 who otherwise meet the qualifications set forth above for a hiring preference under this clause at contract transition but who were not offered employment with the contractor at contract transition;
- ii. Second preference will be given to displaced employees from BWXTO, EG&G, and other onsite contractors, who are eligible for a hiring preference pursuant to Section 3161 of the National Defense Authorization Act of FY 1993, consistent with DEAR clause 952.226-74 and applicable DOE guidance; and
- iii. Third preference will be given to other employees who are eligible for a hiring preference pursuant to Section 3161 of the National Defense Authorization Act of FY 1993, consistent with DEAR clause 952.226-74 and applicable DOE guidance.

If a candidate who does not meet the qualifications set forth above is hired for a specific position instead of a candidate who does meet such qualifications, the contractor's Human Resources Director must document a clear and significant difference in the credentials of the candidates, or other appropriate reason for not selecting the candidate who does meet the qualifications set forth above.

The following costs shall be unallowable:

- (i) Any “sign-on” bonuses offered or paid to BWXTO employees or employees of BWXT or BWXT’s teaming partners as employment inducements;
- (ii) Costs associated with the failure to comply with the above hiring preference and requirements set forth above.

(b) Pay and Benefits

Employees of BWXTO below the level of program/project manager on the date of contract transition who transition to the contractor will initially be provided employee benefits that are substantially equal to the benefits the BWXTO employees were receiving as of the final day of contract DE-AC24-97OH20044. These include but are not limited to pension, investment, medical, life insurance, and long-term disability, fringe benefits.

For all BWXTO employees hired under the contract, the contractor shall credit all retained employees with their current length of service including, but not limited to, vacation, retirement benefits (including pension and medical), severance payments, and application of existing collective-bargaining agreements.

The contractor shall honor accrued leave benefits, e.g. vacation, sick time, etc., of BWXTO employees as of the last day of contract DE-AC24-97OH20044.

(c) Benefit Plans

The contractor shall manage and become a sponsor of all employee pension and welfare benefit programs at the site (including but not limited to current employee and BWXTO and EG&G retiree plans) in accordance with applicable law. The contractor shall take all actions necessary to become the sponsor of the pension and welfare benefit plans within six months after contract award. The contractor will have responsibility for funding, administering, and maintaining the qualified status of all pension and investment plans.

Employees hired during the term of this contract who are not former employees of BWXTO or EG&G with vested interests in the BWXTO or EG&G defined benefit pension plans shall not become participants in those plans unless the contractor can demonstrate that it is more cost effective to the DOE to do so and the CO provides written approval. The contractor shall provide such new employees, subject to any applicable requirements of the Service Contract Act, with a defined contribution pension plan or the contractor may incorporate newly hired employees into its existing corporate defined contribution plans or its corporate pension/benefits structure.

Because the contractor is responsible for administering and maintaining the qualified status of all pension and investment plans, the contractor must submit annual actuarial and employer certification as the sponsoring employer and participating employer in the MCP Pension plans demonstrating full compliance with Internal Revenue Code and Employee Retirement Income Security Act (ERISA) requirements including, but not limited to, any applicable non-discrimination testing.

Changes or amendments to any of the pension and welfare benefit plans, including any of the retirement medical benefits, shall be consistent with applicable law, terms of the respective plans with respect to the procedures for amending such plans, and the terms of this contract and shall be made only with the express, advance, written consent of the CO. The terms "retiree" or "retirees" refer to retired employees of EG&G, BWXTO, and

individuals retired from employment with the contractor during the term of the contract.

(d) Post-Contract Responsibilities for Benefit Plans

Upon completion of this contract, the contractor will continue as plan sponsor of all existing and follow-on pension and welfare benefit plans covering site personnel as directed by DOE. In accordance with DOE-approved contractor welfare benefit plans, the contractor will provide benefit continuation on a funding basis acceptable to DOE.

During the final 12 months of this contract, the CO shall provide written direction to the contractor regarding all post-contract pension and welfare benefit plans.

Labor Relations (Also refer to the clause entitled “Collective Bargaining Agreements—Protective Services” contained in Section I)

The contractor agrees to conduct its labor relations program in accordance with DOE’s intent that labor policies and practices reflect the best experience of American industry in aiming to achieve the type of stable labor-management relations essential to the successful accomplishment of DOE’s programs at reasonable cost. Collective bargaining will be left to the orderly processes of negotiation and agreement between contractor management and certified employee representatives with maximum possible freedom from DOE involvement. The contractor management’s stewardship for working on DOE facilities and programs critical to the national interest includes the duty to adopt practices which are fundamental to the friendly adjustment of disputes, and which experience has shown to be consistent with orderly collective bargaining relationships.

The contractor will maintain positive labor-management relations. The contractor will respect the rights of employees to: organize, form, join, or assist labor organizations; bargain collectively through representatives of their own choosing; engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; and to refrain from any or all of such activities.

The contractor shall be obligated to recognize and bargain with the labor organizations set forth below as the collective-bargaining representatives of BWXTO's non-construction bargaining unit employees represented by each of those labor organizations as a successor employer and to adopt the existing collective-bargaining agreements, consistent with the National Labor Relations Act. Those organizations are as follows:

- a. Paper, Allied-Industrial, Chemical and Energy (PACE)
- b. Security, Police and Fire Professional of American (SPFPA).

#### Employee Relations

The contractor is expected to maintain a positive employee relations environment that will foster high productivity at reasonable cost. The contractor will implement effective employee concerns resolution programs.

#### Advance Understandings

The DOE intends to reach advance understandings with the contractor on pension and welfare benefits applicable to work under this contract and on the contractor's other applicable human resource policies and systems. Before personnel costs and related expenses (including those for pension and welfare benefits) shall be considered allowable under this contract, the contractor shall obtain DOE approval of contractor policies and procedures covering such personnel costs and related expenses. The contractor must also obtain DOE approval of any subsequent changes to such policies and to applicable pension and welfare benefit plans. A Personnel Appendix will not be used. Any deviation from the advance understandings must be approved by the CO in writing before such costs incurred will be considered allowable (either as direct or indirect costs) under this contract. These understandings in advance of cost incurrence avoid subsequent disputes in cost categories where reasonableness or allowability may be difficult to determine.

Examples of personnel costs and related expenses covered by the advance understandings include, but are not limited to, the following: salaries and wages; bonuses and incentive compensation; fringe benefits; premium pay; overtime; holidays; paid time off (vacations, holidays, sick, funeral, military, jury, witness, voting leave); travel, subsistence and relocation; training; insurance; workers compensation; and employee benefit plans such as savings, retirement, separation, life insurance, medical, and disability (short and long term).

The CO approval is required for total annual reimbursed compensation over \$100,000 paid to each individual that charges more than fifty percent (50%) of their time to this contract in a twelve (12) month period. This excludes any bonus or incentive compensation pay which, if paid by the contractor, will be paid out of the contractor's fee and not reimbursed under this contract. CO approval is also required for the individual compensation (salary action including stipends, if any) of the Site Manager and his/her direct reports within the contractor organization. No compensation or salary that is reimbursed by the DOE shall be more than the Site's Manager's salary.

Relocation costs incurred with regard to relocating an employee to the work site are included in the target cost, and are allowable in accordance with FAR 31.205-35, Relocation Costs, for this contract. The contractor shall submit a plan for advance written approval from the CO regarding the temporary and permanent relocation of all employees to the local area charging the cost, or any portion thereof, to this contract. Exit relocation costs are not allowable.

Workforce Restructuring (Also refer to the clauses entitled “Displaced Employee Hiring Preference” and “Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993” contained in Section I.)

The contractor shall comply with the provisions of the Ohio Field Office Workforce Restructuring Plan, “An End in Sight,” dated July 1997, and the amendment dated September 1997 to that plan, as well as any site-specific plans. The contractor will use its best efforts to mitigate social and economic impacts on the local community.

The contractor will continue a detailed manpower planning process at the MCP, which aligns staffing levels over time, integrated with the site project baseline. The contractor will share this information periodically with its employees to encourage those in classifications scheduled for reduction to take advantage of the many programs offered. These programs provide an opportunity for employees to transition into other site job classifications, which are increasing, or to better position them to leave the site for other employment opportunities.

The contractor has authority for contractor separations of below 50 employees in a 12-month period without prior approval from Headquarters or the Ohio Field Office. At least forty-eight hours prior to implementing the separation, the contractor shall simultaneously notify the Ohio Field Office (Manager) and the congressional district office. For separations between 50 and 99 employees the contractor will need the approval of the Ohio Field Office.

#### Contractor Human Resource Programs

The contractor shall comply with the sections of DOE Order 350.1 (which has expired) that are applicable to pensions and benefits. The contractor shall implement the revised DOE order when it is issued, as directed by the CO.

The above clause, as all other clauses, is not intended for the benefit of third parties.

**H.26 CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR**

The Representations, Certifications, and Other Statements of the offeror submitted with the offer for this contract are, by reference, hereby incorporated in and made a part of this contract.

**H.27 STAKEHOLDER INTERACTION**

The contractor shall, in addition to its own employees, engage in cooperative interactions through and with these organizations, including but not limited to:

The U.S. Environmental Protection Agency  
 The State of Ohio Environmental Protection Agency  
 The Miamisburg Mound Community Improvement Corporation (MMCIC)  
 The Mound Reuse Committee (MRC)  
 Miamisburg Environmental Safety and Health (MESH)  
 Paper, Allied-Industrial, Chemical and Energy (PACE)  
 Security, Police and Fire Professionals of America (SPFPA)  
 Local media and trade press  
 The Miamisburg City Council  
 The DOE-OH  
 The DOE-HQ  
 Congressional Staff  
 Defense Nuclear Facilities Safety Board (DNFSB)  
 The Department of Labor  
 Inspector General  
 Defense Contract Audit Agency  
 Ohio Department of Health

**H.28 AGE DISCRIMINATION IN EMPLOYMENT**

The contractor shall not discriminate against any employee, applicant for employment, or former employee on the basis of age. The contractor shall comply with the Age Discrimination in Employment Act, with any state or local legislation regarding discrimination based on age, and with all applicable regulations thereunder.

**H.29 CONDITIONAL PAYMENT OF FEE OR PROFIT—SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION****(a) General.**

- (1) The payment of fee or profit (i.e., award fee, fixed fee, and incentive fee or profit) under this contract is dependent upon the contractor's compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other



classified information (i.e., Formerly Restricted Data and National Security Information) including compliance with applicable law, regulation, and DOE directives. The term “contractor” as used in this clause to address failure to comply shall mean “contractor or contractor employee.”

- (2) In addition to other remedies available to the Federal Government, if the contractor fails to comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information, the contracting officer may unilaterally reduce the amount of earned fee, fixed fee, or profit which is otherwise payable to the contractor in accordance with the terms and conditions of this clause.
- (3) Any reduction in the amount of fee or profit earned by the contractor will be determined by the severity of the contractor's failure to comply with contract terms and conditions relating to the safeguarding of Restricted data or other classified information pursuant to the degrees specified in paragraph (c) of this clause.

(b) Reduction Amount.

- (1) If it is found that the contractor has failed to comply with contract terms and conditions relating to the safeguarding of Restricted Data or other classified information, the contractor's earned or fixed fee, or profit may be reduced. Such reduction shall not be less than 51% nor greater than 100% of the total fee or profit earned for a first degree performance failure, not less than 26% nor greater than 50% for a second degree performance failure, and up to 25% for a third degree performance failure. The contracting officer may consider mitigating factors that may warrant a reduction below the specified range, including a determination that no reduction should be made (see 48 CFR 904.402(c)).
- (2)
  - (i) For purposes of this clause, the contracting officer will at the time of contract award allocate the total amount of fee or profit that is available under this contract to equal periods of 12 months to run sequentially for the entire term of the contract (i.e., from the effective date of the contract to the expiration date of the contract, including all options). The amount of fee or profit to be allocated to each period shall be equal to the average monthly fee or profit that is available or otherwise payable during the entire term of the contract, multiplied by the number of months established above for each period.
  - (ii) The total amount of fee or profit that is subject to reduction

under this clause, in combination with any reduction made under any other clause in the contract that provides for a reduction to the fee or profit, shall not exceed the amount of fee or profit that is earned by the contractor in the period established pursuant to paragraph (b)(2)(i) of this clause in which a performance failure warranting a reduction occurs.

- (3) For performance-based firm-fixed-price contracts, the contracting officer will at the time of contract award include negative monetary incentives in the contract for contractor violations relating to the safeguarding of Restricted Data and other classified information.

(c) Safeguarding Restricted Data and Other Classified Information.

The degrees of performance failures relating to the contractor's obligations under this contract for safeguarding of Restricted Data and other classified information are as follows:

- (1) First Degree: Performance failures that have been determined, in accordance with applicable DOE regulation or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following performance failures or performance failures of similar import will be considered first degree:
  - (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other classified information classified as Top Secret.
  - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Restricted Data, or other classified information which is classified as Top Secret.
  - (iii) Failure to implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information classified as Top Secret.
- (2) Second Degree: Performance failures that have been determined, in accordance with applicable DOE regulation or directive, to have actually resulted in, or that can reasonably be expected to result in,

serious damage to the national security. The following performance failures or performance failures of similar import will be considered second degree:

- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other classified information which is classified as Secret.
  - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Restricted Data, or other classified information which is classified as Secret.
  - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification.
  - (iv) Failure to implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information classified as Secret.
- (3) Third Degree: Performance failures that have been determined, in accordance with applicable DOE regulation or directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following performance failures or performance failures of similar import will be considered third degree:

- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other classified information which is classified as Confidential.
- (ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the

safeguarding of Restricted Data or other classified information.

- (iii) Failure to identify or execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the contractor's Safeguards and Security Plan or other security plan, as applicable.
- (iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.